

MATTER OF TORBERGSEN

In Deportation Proceedings

A-18244859

Decided by Board November 26, 1969

Respondent, who possesses the requisite familial relationship, and who is deportable as one excludable at entry under section 212(a) (20) of the Immigration and Nationality Act because not an immediate relative as specified in his immigrant visa obtained on the basis of an invalid marriage (his United States citizen wife's prior marriage never having been terminated), comes within the purview of section 241(f) of the Act, as amended, notwithstanding there was no fraud on his part (*Matter of Lim*, Int. Dec. No., 1947), and notwithstanding he was not in possession of a labor certification at time of entry (*Castillo-Godoy v. Rosenberg*, 415 F.2d 1266 (C.A. 9, 1969)).

CHARGES:

Order: Act of 1952—Section 241(a) (1) [8 U.S.C. 1251(a) (1)]—Excludable at entry for procuring documentation by willful misrepresentation under section 212(a) (19) of the Act.

Act of 1952—Section 241(a) (1) [8 U.S.C. 1251(a) (1)]—Excludable at entry—not immediate relative as specified in immigrant visa under section 201(b) of the Act.

ON BEHALF OF RESPONDENT:

Dean A. Andrews, Jr., Esquire
803 Maison Blanche Building
New Orleans, Louisiana 70112
(Brief filed)

ON BEHALF OF SERVICE:

Henry J. Scroope, Jr.
Trial Attorney
(Brief filed)

The respondent, a native and citizen of Norway, appeals from an order entered by the special inquiry officer denying his motion to reopen and reconsider a decision of January 15, 1969, which finds the respondent deportable under the provisions of section 241(a) (1) of the Act as an alien who was excludable at the time of entry because he was not an immediate relative as specified in his immigration visa under section 201(b) of the Act. The order entered on that occasion provided for the respondent's voluntary departure in lieu of deportation with the proviso that if he failed